

FD

27 April 1950

Legal Staff

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Claim for per diem by Mr. [REDACTED]

1. We have your memorandum of 11 April 1950, forwarding memo from Chief, FEA, dated 3 April 1950, regarding a claim for per diem payment to Mr. [REDACTED]. The period involved is from 25 April 1949 to 13 February 1950, and apparently consists of about two months active training under direct Agency control and the remainder under State Department. Payment of per diem for the period in question is controlled by [REDACTED] (effective at the time) and S.O. Procedure Guide No. 6/8 dated 5 February 1948. Since the Administrative Instructions from 2 March 1948 to 6 January 1950 made no provision for the rate of per diem which was allowable, we need look only to the Procedure Guide for instruction.

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2. The file is not clear on a number of points, and the following should be answered before a final determination is made:

- a. Was [REDACTED] hired for overseas service?
- b. At what time were travel orders issued?
- c. Was he notified of his entitlement to per diem (under the provisions of S.O. Procedure Guide No. 6/8)?
- d. Was it the administrative intention at the time to grant per diem?
- e. Was there any hardship imposed on [REDACTED] by the cost of his living arrangements?
- f. What time was actually spent living in Washington during the period in question?

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3. Answers to some of these questions may render further re-submission unnecessary. If there was no administrative intention at the time to grant per diem, the action cannot be corrected at this time to take effect retroactively. If it was simply a matter of clerical inadvertence, however, there would be no legal objection to perfecting the records to reflect the actual administrative intent. The essence of the per diem allowance in any case of this type, of course, depends on the added burden to the employee, and the financial imposition must be demonstrated. The mere fact that the employee returned to his home in adjacent Baltimore over the week-end would not necessarily obviate payment of the per diem.

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provided he did, in fact, maintain a residence in Washington throughout the course of his training.

4. If answers to the above questions do not resolve your doubts, we will be pleased to give you any further opinion you require.

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cc: Subject
Chrono
Legal Decisions

Attach:

1. Memo dtd 3 April 1950 to CFD

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